

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	Civil Action No. 18-cv-805
)	
v.)	
)	COMPLAINT
PML SERVICES, LLC, d/b/a)	(Jury Trial Demand)
IHG ARMY HOTELS – FORT McCOY,)	
)	
Defendant.)	
)	
)	
)	

NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities Act of 1990 (“ADA”) and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices based on disability and to provide appropriate relief to Leigh Hancock, a former PML Services LLC employee with a seizure disorder, which substantially limited her ability to perform major life activities, including but not limited to neurological function, thinking, and caring for herself. Specifically, PML discriminated against her by denying her reasonable accommodation and firing her because of her disability.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343, and 1345. This action is authorized and instituted pursuant to Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Section 706(f) (1) and (3) of Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. § 2000e-5(f) (1) and (3), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of Wisconsin.

PARTIES

3. The plaintiff, Equal Employment Opportunity Commission (“EEOC”), is the agency of the United States of America charged with administering, interpreting, and enforcing Title I of the ADA, and is expressly authorized to bring this action by Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, the defendant, PML Services LLC (“PML”), has continuously been and is now a corporation doing business in the State of Wisconsin and has continuously had and does now have at least 15 employees.

5. At all relevant times, PML has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of Section 101(5) of the ADA, 42 U.S.C. § 12111(5), and Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g) and (h).

6. At all relevant times, PML has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

ADMINISTRATIVE PROCEDURES

7. More than 30 days before institution of this lawsuit, Leigh Hancock filed a charge with the EEOC alleging PML had violated Title I of the ADA.

8. On June 29, 2018, the EEOC issued to PML a Letter of Determination finding reasonable cause to believe that the ADA was violated and inviting PML to join with the EEOC

in informal methods of conciliation to endeavor to eliminate the unlawful employment practices and provide appropriate relief.

9. The EEOC engaged in communications with PML to provide it the opportunity to remedy discriminatory practices described in the Letter of Determination.

10. On August 7, 2018, the EEOC issued to PML a Notice of Conciliation Failure advising PML that the EEOC was unable to secure from PML a conciliation agreement acceptable to the EEOC.

11. All conditions precedent to the institution of this lawsuit have been fulfilled.

STATEMENT OF CLAIMS

12. Ms. Hancock is a qualified individual with a disability under Sections 3 and 101(8) of the ADA, 42 U.S.C. §§ 12102 and 12111(8). She has an impairment, seizure disorder, that substantially limits major life activities, including, but not limited to, neurological function, thinking, and taking care of herself.

13. Beginning in or about April 1, 2015, PML engaged in unlawful employment practices at its IHG Army Hotel in Fort McCoy, Wisconsin (“the Hotel”), in violation of Title I of the ADA, 42 U.S.C. §12112(a) and (b)(5)(A) and (B), by denying Ms. Hancock a reasonable accommodation and firing her because of her disability (seizure disorder):

(a) On March 31, 2015, Ms. Hancock, who worked for PML as a Room Attendant, at the Hotel, suffered a seizure at home after her work shift.

(b) On April 1, 2015, her day off, Ms. Hancock contacted her supervisor, Housekeeping Manager Kathy Mitchell, and asked for two additional days off to recover from her seizure.

(c) In response, Mitchell allowed Ms. Hancock the additional two days off and set a meeting for Ms. Hancock’s first day back, April 6, before her shift started.

(d) At the April 6 meeting, Mitchell and the Hotel's General Manager fired Ms. Hancock because of her seizure-related absences without engaging in the interactive process.

14. The effect of the practices complained of in paragraph 13 has been to deprive Ms. Hancock of equal employment opportunities, and to otherwise adversely affect her status as an employee, because of her disability, in violation of Title I of the ADA, 42 U.S.C. § 12112.

15. The unlawful employment practices complained of in paragraph 13 were intentional.

16. The unlawful employment practices complained of in paragraph 13 were done with malice or with reckless indifference to Ms. Hancock's federally protected rights.

PRAYER FOR RELIEF

Wherefore, the EEOC respectfully requests that this Court:

A. Grant a permanent injunction enjoining PML and its subsidiaries, officers, agents, servants, employees, successors, and assigns, and all persons in active concert or participation with them, from engaging in any employment practice which discriminates based on disability;

B. Order PML to institute and carry out policies, practices, and programs which provide equal employment opportunities for qualified individuals with disabilities and which eradicate the effects of its past and present unlawful employment practices;

C. Order PML to make Ms. Hancock whole by providing appropriate back pay and lost benefits with pre-judgment interest, in amounts to be determined at trial;

D. Order PML to make Ms. Hancock whole by providing the affirmative relief necessary to eradicate the effects of its unlawful practices, including (but not limited to) rightful-place reinstatement or front pay, including lost benefits, as necessary in lieu of reinstatement;

E. Order PML to make Ms. Hancock whole by providing compensation for past and future pecuniary and non-pecuniary losses resulting from the unlawful employment practices described in paragraph 13 above, including (but not limited to) emotional pain, suffering, and inconvenience, loss of enjoyment of life, and humiliation, in an amount to be determined at trial;

F. Order PML to pay Ms. Hancock punitive damages for its malicious and reckless conduct described in paragraph 13 above, in an amount to be determined at trial;

G. Grant such further relief as the Court deems necessary and proper in the public interest; and

H. Award the EEOC its costs of this action.

JURY TRIAL DEMAND

The EEOC requests a jury trial on all questions of fact raised by its complaint.

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Dated: September 28, 2018

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